



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/283,561	04/01/1999	JAMES R. H. CHALLENGER	YO999-011(87	1201
46069 7590 07/10/2008 F. CHAU & ASSOCIATES, LLC 130 WOODBURY ROAD WOODBURY, NY 11797				
EXAMINER BLACKWELL, JAMES H				
ART UNIT 2176		PAPER NUMBER		
MAIL DATE 07/10/2008		DELIVERY MODE PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JAMES R.H. CHALLENGER, CAMERON FERSTAT, ARUN K.
IYENGAR, PAUL REED and KAREN A. WITTING

Application 09/283,561
Technology Center 2100
Date Mailed: July 9, 2008

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This Image File Wrapper (IFW) application was electronically received at the Board of Patent Appeals and Interferences on March 10, 2008. A review has determined that the application is not ready for docketing as an appeal. Accordingly, this application is herewith being returned to the Examiner. The matter requiring attention prior to docketing is identified below:

Appellant filed an Appeal Brief which was received by the USPTO on April 11, 2006. The content listed under the heading “Summary of Claimed Subject Matter” does not provide a concise explanation of the subject matter defined in each of the independent claims involved in the appeal. *See* 37 C.F.R. § 41.37(c)(1)(v) 2006.

Correction is required. MPEP § 1205.03 states:

When the Office holds the brief to be defective solely due to appellant's failure to provide a summary of the claimed subject matter as required by 37 CFR 41.37(c)(1)(v), an entire new brief need not, and should not, be filed. Rather, a paper providing a summary of the claimed subject matter as required by 37 CFR 41.37(c)(1)(v) will suffice. Failure to timely respond to the Office's requirement will result in dismissal of the appeal. See MPEP § 1215.04 and §711.02(b).

The Brief fails to identify each independent claim involved in the appeal by not listing claim 42 and 75.

Also, under the content listed "Status of Amendments" at least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (*See* 37 C.F.R. § 41.37(c)(1)(iv)).

Accordingly, it is ORDERED that the application is returned to the Examiner to:

- 1) hold the Appeal Brief filed on April 11, 2006 defective;
- 2) notify appellants to file a paper providing a summary of the claimed subject matter as required by 37 CFR 41.37(c)(1)(v);
- 3) notify appellants to file a paper providing a correct status of amendments as required by 37 C.F.R. § 41.37 (c)(1)(iv).
- 4) consider the paper providing a summary of the claimed subject matter as required by 37 CFR 41.37(c)(1)(v).
- 5) consider the paper providing the status of amendments as required by 37 C.F.R. § 41.37 (c)(1)(iv) and;
- 6) for such further action as may be appropriate.

Application 09/283,561

BOARD OF PATENT APPEALS
AND INTERFERENCES

By: /Krista Zele/

Krista Zele
Deputy Chief Appeals Administrator
(571) 272-9797

KZ/tlc

F. CHAU & ASSOCIATES, LLC
130 WOODBURY ROAD
WOODBURY, NY 11797